

## CONTRACT

The Parties to this Contract are the State of Illinois acting through the undersigned Agency/Buyer (collectively the State) and the Vendor. The Contract consists of this signature page, the following pages detailing the contents described below, and any attachments identified on these pages.

1. TERM AND TERMINATION
2. DESCRIPTION OF SUPPLIES / SERVICES
3. PRICING
4. STANDARD TERMS AND CONDITIONS
5. CERTIFICATIONS AND CONFLICTS
6. SUPPLEMENTAL PROVISIONS

In consideration of the mutual covenants and agreements contained in this Contract, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the terms and conditions set forth herein and have caused this Contract to be executed by their duly authorized representatives on the dates shown below.

**VENDOR**The Liberty Consulting GroupSignature Printed Name Robert StrightTitle EXECUTIVE VICE PRES. Date 8/23/07Address 65 Main Street, P.O. Box 1237Quentin, PA 17083Phone 717-270-4500 Fax 717-270-0555E-mail Stright@LibertyConsultingGroup.com

Dept. of Human Rights Public Contract # \_\_\_\_\_

**STATE OF ILLINOIS**Illinois Commerce CommissionSignature Printed Name Tim AndersonTitle Executive Director Date 8/29/07Signature Printed Name Mary StephensonTitle General Counsel Date 8/29/07Signature Printed Name Kenneth HundrieserTitle State Purchasing Officer Date 08/27/2007STATE USE ONLY - Procurement Method (IFB, RFP, Small, etc): RFPAward Code: BIPB Publication Date: 8/15/07IPB Ref. # 22013602Subcontractor Utilization? YSubcontractor Disclosure? Y(Fiscal Use Only) Obligation # 693

**1. TERM AND TERMINATION**

**1.1 TERM OF THIS CONTRACT**

This Contract shall commence upon the last dated signature by Illinois Commerce Commission representatives and shall conclude on or before December 31, 2011 except that provisions relating to liability, insurance, and confidentiality and provision of testimony and related services in formal proceedings concerning the subject matter of the contract, shall survive the end date of the Contract.

**1.2 RENEWAL**

Except as otherwise shown, the State reserves the right to renew the Contract for the same or lesser length of term as the initial term and on the same terms and conditions. Renewal pricing is shown in Section 3. However, the Contract may not renew automatically, nor may the contract renew solely at the Vendor's option.

**1.3 TERMINATION FOR CAUSE**

The State may terminate this Contract, in whole or in part, immediately upon notice to the Vendor if it is determined that the actions, or failure to act, of the Vendor, its agents, employees or subcontractors have caused, or reasonably could cause jeopardy to health, safety, or property. If Vendor fails to perform to the State's satisfaction any material requirement of this Contract or is in violation of a material provision of this Contract, the State shall provide written notice to the Vendor requesting that the breach or noncompliance be remedied within the period of time specified in the State's written notice. If the breach or noncompliance is not remedied by that date the State may either: (a) immediately terminate the Contract without additional written notice or, (b) enforce the terms and conditions of the Contract, and in either event seek any available legal or equitable remedies and damages.

**1.4 TERMINATION FOR CONVENIENCE**

Following thirty (30) days written notice, the State may terminate this Contract in whole or in part without the payment of any penalty or incurring any further obligation to the Vendor. Following any such termination for convenience, the Vendor shall be entitled to compensation upon submission of invoices and proof of claim for services provided under this Contract up to and including the date of termination.

## **2. DESCRIPTION OF SUPPLIES AND SERVICES**

### **2.1 NEED FOR SUPPLIES AND/OR SERVICES**

- 2.1.1** On July 19 and 21, 2006, wind storms struck the service areas of all three Ameren utilities in Illinois. Over 300,000 electric customers lost service in Illinois. Restoring service to AmerenCILCO, AmerenCIPS, and AmerenIP customers took over a week.
- 2.1.2** On November 30, 2006, an ice storm struck central Illinois. The storm interrupted electric service to over 200,000 Ameren Illinois customers. The Ameren utilities took about 9 days to restore service to all Illinois customers.
- 2.1.3** Assessments of Ameren's Illinois utilities' electric service reliability written by Agency engineers and adopted by the Agency pursuant to Agency rules [83 Ill. Adm. Code 411.140] have contained criticism of Ameren utility tree trimming, other distribution line maintenance issues, and the placement of lightning arrestors and tap fuses. These assessments have suggested that the condition of Ameren electricity delivery facilities could contribute to the effects of storms on service to Ameren's customers.
- 2.1.4** Recognizing the above facts, the Agency decided to investigate Ameren's service restoration response to learn if it was adequate and appropriate and to investigate the condition of Ameren's electricity delivery facilities to learn if it contributed to the large numbers of service interruptions during the storms. The Agency also desires to verify that the utilities implement recommendations from the investigation.

### **2.2 GOALS AND OBJECTIVES**

- 2.2.1** Phase 1 - An investigation to determine whether each Ameren utility in Illinois (AmerenCILCO, AmerenCIPS, and AmerenIP) appropriately planned, designed, constructed, inspected, and maintained their electricity delivery systems.
- 2.2.2** Phase 1 - An investigation to determine whether each Ameren utility in Illinois adequately planned, prepared, and executed service restoration efforts following the July 2006 wind storms and the November 2006 ice storm.
- 2.2.3** Phase 1 - One comprehensive written report to the Agency with separate findings and recommendations for each of the three utilities. The report must also include the investigations' conclusions, the above described determinations, detailed recommendations for improvement that each utility can implement and the Agency can verify, a timetable for utility implementation of the recommendations, and a plan for verifying that each utility has implemented Vendor's recommendations and any initiatives each utility may plan to undertake.
- 2.2.4** Phase 2 - Quarterly verifications for up to three years following the investigations to measure each utility's progress against Vendor's timetable for implementing Vendor's recommendations and any initiatives each utility may plan to undertake. Each quarterly verification will include a written report to the Agency.

### **2.3 SUPPLIES AND/OR SERVICES REQUIRED**

#### **2.3.1 Specifications - General**

##### **2.3.1.1 Project Managers.**

**2.3.1.1.1** Agency Project Manager shall be Mr. Phillip Roy Buxton, 527 East Capitol Avenue, Springfield, Illinois 62701, phone (217) 785-5424, or other person so designated by the Agency. Use of the term "Staff" within this Contract refers to the Agency Project Manager and other Agency personnel who shall have a direct interest in this project. Where any dispute should arise concerning this project, Agency Project Manager shall make a final determination over any such disputed matters.

**2.3.1.1.2** Ameren shall provide a Project Manager to work with Agency Project Manager and Vendor in matters concerning this project.

##### **2.3.1.2 Detailed work plans.**

**2.3.1.2.1** Vendor shall submit a detailed work plan for approval by the Agency before in-depth work begins. This will allow the Agency to fully understand the issues and subjects that will be addressed and give both Staff and the Vendor a written document to refer to throughout the investigation.

**2.3.1.3** Vendor shall attend Agency briefing sessions and agenda meetings as deemed necessary by Agency Project Manager. Vendor shall meet with Staff in the Agency's offices in Chicago or Springfield as requested by the Agency Project Manager.

**2.3.1.4** Vendor shall be an independent contractor for all purposes, except that Vendor and all persons who perform work under this Contract will function as an extension of the Agency Staff for purposes of Sections 5-108 and 10-107 of the Illinois Public Utilities Act [220 ILCS 5/5-108 and 10-107]. Services performed pursuant to this

Contract are not rendered as an employee of the Agency or of the State of Illinois. Amounts paid pursuant to this Contract do not constitute compensation paid to an employee.

- 2.3.1.5 When Vendor is on utility premises; Vendor shall comply with all regulatory standards and utility policies dealing with safety, insurance, work specifications, and not unreasonably interfere with utility operations.
- 2.3.1.6 Vendor shall acquire or maintain, at its expense, insurance that is appropriate in type and amount to cover its activities and be prepared to provide certificates of insurance at Agency's request.
- 2.3.1.7 Upon completion of this engagement, Vendor shall maintain the work papers it has prepared in the course of performing its obligations under the Contract for a period of no less than three years from the date of final payment under the Contract, or until all litigation, if any, related to this project is completed, whichever event occurs later. Vendor shall make such work papers available to the Commission and its Staff as requested or directed by the Commission, its Executive Director, or his designee. This obligation shall survive termination of the Contract.
- 2.3.1.8 With respect to any information learned while performing the duties described in section 2.3.2, and for a period of three years after completion of this Contract, Vendor shall provide a witness or witnesses who can explain and support the investigation findings and recommendations in written testimony and under cross-examination in a formal Agency proceeding, should such a proceeding be conducted, and who can provide expert assistance to the Agency, its Staff, and/or Agency counsel, in all matters relating to such a proceeding, including discovery and the preparation of pleadings, briefs and other legal documents:
  - 2.3.1.8.1 If such testimony is required, Agency and Vendor agree to enter into good faith negotiations for a separate agreement for the services described in this subparagraph.
  - 2.3.1.8.2 The hourly fees charged by Vendor under such agreement shall be at the then current hourly rates, provided that such rates shall be no greater than the fees charged for the same individual under this Contract plus a reasonable adjustment for inflation.
  - 2.3.1.8.3 Vendor will sign, on the advice of Agency counsel, and honor protective orders in the formal Agency proceeding.
- 2.3.1.9 Changes to the Vendor's staff (or others who would perform work under this Contract) must be pre-approved by the Agency Project Manager. Vendor must provide the Agency Project Manager with the necessary revisions to Vendor's Staffing Specifications supplied pursuant to section 2.5.
- 2.3.2 Specifications for investigation phase ("Phase 1") – Identification of work steps Vendor is to perform.
  - 2.3.2.1 Vendor will become familiar with all available written materials concerning the subject of this investigation, including relevant portions of the Illinois Public Utilities Act, Agency rules [83 Ill. Adm. Code 305, 410, and 411], the National Electrical Safety Code ("NESC") rules adopted by the Agency, Agency's written assessments of AmerenCILCO's, AmerenCIPS' and AmerenIP's electric service reliability, other relevant Agency documents, news media accounts of the storms and of Ameren's restoration activities, press releases by Ameren and by other governmental and public figures, etc. Vendor shall also become familiar with a recording of an 11:00 A.M., December 13, 2006, media conference call by Ameren's Chairman, President and Chief Executive Officer Gary Rainwater and Ameren's Executive Vice President and Chief Operating Officer Thomas R. Voss. The recorded conference call is available on the Internet at [www.ameren.com](http://www.ameren.com).
  - 2.3.2.2 The investigation shall focus first on the utilities' electricity delivery system conditions and the utilities' policies, practices, and actions as they existed just prior to the storms and as they occurred during the storms. Any changes that Ameren has implemented or is proposing for the future should be recognized, but should not become the basis for omitting a full investigation and full reporting of the previously existing conditions, policies, practices, and actions or for omitting recommendations for improvement.
  - 2.3.2.3 Develop and submit a detailed work plan to Staff for approval within fifteen (15) business days of contract execution. Throughout the engagement Vendor shall revise the work plan and submit to Agency Project Manager for approval as required by the Project Manager. The work plan must provide for active participation and coordination with the Staff. The work plan shall include steps to meet the goals and objectives of the Agency specified in section 2.2. Vendor shall include in its work plan response an estimate of the hours required for each work step for each Vendor position (e.g. manager, engineer, consultant, analyst, etc.). Vendor shall also include identification of tasks into which Vendor will divide the Phase 1 investigation work and upon which Vendor will write Phase 1 investigation task completion reports during the course of the investigation. The focus of the work plan is to function as a project management tool to assure Staff that Vendor has an adequate understanding of the requirements of the contract and can allocate resources reasonably to meet the requirements of the contract as well as provide Staff with appropriate performance benchmarks.

- 2.3.2.4** Coordinate the timing of Vendor's on-site visits, which shall be as numerous as required by the Vendor's duties under the contract, with Agency Project Manager and Ameren's Project Manager.
- 2.3.2.5** At each Ameren utility, conduct an independent investigation, including, but not limited to, data requests, interviews with utility management personnel and labor union line and substation construction and maintenance personnel, interviews with contractor and outside utility personnel who assisted Ameren with its restoration efforts, interviews with Agency engineers who have inspected Ameren utility facilities in recent years, visits and interviews with other utilities to learn best practices, and field inspections to examine physical and electrical condition and age of facilities and equipment and submit a final report to the Commission within twelve (12) months of the execution date of the contract. This investigation shall include, but shall not be limited to the following issues.
- 2.3.2.5.1** The dates and times of the storms. The areas of Ameren utilities electric service territories affected by the storms. A description of the storms that includes details on lightning, wind, rain, ice accumulation by region, etc. Pictures, if available, that depict the type of damage caused to utility facilities and to the communities that they serve.
- 2.3.2.5.2** Service interruptions. How many AmerenCILCO, AmerenCIPS, and AmerenIP customers experienced electric service interruptions related to each storm? In which areas or cities did the utilities take the longest to restore electric service and why? Did the utilities experience unique problems in Decatur, Champaign/Urbana, Metro East or other communities? Provide graphs or tables that show the duration of electric service interruptions experienced by each Ameren utility's customers in Illinois and for the Ameren Illinois total. How many extended service interruptions were extended to some degree because of customer action delays? Describe how weather conditions may have contributed to delays in restoration of service.
- 2.3.2.5.3** Causes of service interruptions. For each utility, list the number of customer interruptions attributed to each of the various causes of the service interruptions related to the storms. For example, what number interruptions were caused by lightning damage to equipment, wind blowing down electric lines, trees breaking and falling onto electric lines, electric facilities failing under the strain of the ice load on them, overhead services being pulled off buildings, or auto accidents on ice covered roads? For each utility, list the number of locations where primary or secondary wires were broken or dropped to the ground. Were the causes or the nature of electrical equipment outages different for each utility? For example, did one utility experience many more broken primary wires, overhead service cables pulled from houses, etc. and, if so, can the utilities explain why?
- 2.3.2.5.4** An explanation of the damage to the electricity delivery systems from the storms. A reasonably complete description of the damage to various types of facilities and equipment. A special section on damage to transmission lines. Did transmission lines gallop and cause service interruptions?
- 2.3.2.5.5** Planning, design, construction, inspection, testing, and maintenance of electricity delivery systems that meet NESC, Agency rules, and good utility practice requirements. Have the utilities planned, designed, constructed, inspected, tested, and maintained electricity delivery systems that can provide safe and reliable service to customers?
- 2.3.2.5.6** The hiring, training, and maintenance of a workforce with the necessary tools and equipment adequate to plan, design, construct, inspect, testing, and maintain electricity delivery systems that meet NESC, Agency rules, and good utility practice requirements and that will supply safe and reliable electric service to customers. Do Ameren utilities have enough personnel to do the job? Do the results of the interviews with Ameren workforce members indicate that workforce manpower adequacy is perceived as an issue in the field? Are the Ameren workers properly trained to do the job? Have the Ameren utilities provided personnel with the necessary resources to do the job?
- 2.3.2.5.7** Distribution easements. Have the utilities acquired easements for their overhead electric distribution facilities that adequately and appropriately provide for vegetation management physical clearance requirements?
- 2.3.2.5.8** The utilities' vegetation management programs and practices and the physical condition of trees near the utilities' electric lines as compared to the requirements of the NESC and good utility practice. Have the utilities managed vegetation to maximize safety and service reliability to the greatest practical extent? Have the utilities removed trees in and outside the right-of-way that present a danger to safety and service reliability? Have the utilities appropriately kept trees from interfering with its lines? Have the utilities removed vegetation that overhangs its lines? Are the utilities' vegetation management contracts adequate and do they contain the appropriate tree trimming standards for the utilities' cycle length? Have the utilities budgeted and spent enough money on vegetation management? What tree trimming performance standards have the utilities

included and enforced in their vegetation management contracts with outside contractors? What are the positive and negative effects that the utilities' vegetation management programs had on the number of service interruptions caused by the storms? Should the utilities have done more to prevent trees from causing interruptions due to the storms?

- 2.3.2.5.9** Physical and electrical condition and age of facilities. What is the physical and electrical condition and age of the utilities' electric transmission and distribution lines, substations, and other facilities as compared to the NESC rules and good utility practices? Do the utilities' understanding of this physical and electrical condition and age agree with Vendor's observations and conclusions? Did the physical and electrical condition and age of the utilities' facilities add to the number of service interruptions?
- 2.3.2.5.10** The utilities' electric transmission and distribution line and substations inspection programs and practices as compared to the NESC rules and good utility practices. Have the utilities adequately inspected all facilities to comply with NESC inspection requirements and good utility practice? Are the utilities aware of the condition of all facilities?
- 2.3.2.5.11** Lightning protection. How do the utilities' transmission and distribution lightning protection policies and procedures compare to good utility practice?
- 2.3.2.5.12** Animal protection. How do the utilities' transmission and distribution animal protection policies and procedures compare to good utility practice?
- 2.3.2.5.13** Physical condition of poles. What is the physical condition of the utilities' transmission and distribution system poles? Were the poles originally constructed to meet the strength requirements of the NESC rules? Do the poles still meet the strength requirements of the NESC rules?
- 2.3.2.5.14** The utilities' transmission and distribution system pole inspection programs and practices as compared to the NESC and good utility practices. Have the utilities inspected all their transmission poles and all their distribution poles to comply with NESC inspection requirements and good utility practices and to verify compliance with NESC strength requirements?
- 2.3.2.5.15** The utilities' transmission and distribution line and substation maintenance programs as compared to the NESC and good utility practices. Have the utilities adequately maintained their transmission and distribution lines and substations? Have the utilities budgeted and spent enough money on maintenance? Have the utilities dedicated sufficient resources to maintenance?
- 2.3.2.5.16** Actions toward compliance with NESC rules and good utility practices. What should the utilities have done to bring their electricity delivery systems into compliance with NESC rules and good utility practices? To what degree would those actions have reduced the number of service interruptions caused by the storms?
- 2.3.2.5.17** Actions the utilities should take to prepare their electricity delivery systems to better withstand the forces of future storms and minimize interruptions of service to customers.
- 2.3.2.5.18** Physical loading of support structures. Did conditions during the storms cause physical loading of the utilities' systems to exceed the strength requirements of the NESC? If yes, what regions or areas of the systems were so loaded? Did this loading account for some, most, or all of the resulting electric service interruptions to customers? Were some regions or areas of the utility systems not overloaded, and did those regions or areas also experience large numbers of electric service interruptions?
- 2.3.2.5.19** Broken poles. How many poles were broken by the storms? After the storms, did the utilities conduct an examination of the broken poles to assess their physical condition and strength prior to the storms? If yes, what did the utilities conclude?
- 2.3.2.5.20** Substation equipment outages. Did the storms cause equipment outages inside substations that resulted in interruption of service to customers? How many customers lost service at each substation and for how long? Were these equipment outages avoidable? What could the utilities have done to avoid these outages?
- 2.3.2.5.21** Utility initiatives directed at the delivery system. Because of the storms of 2006 and because of the publicity they have generated or for other reasons, like current and previous pressure from the Agency, Ameren and its utilities may decide to implement some new initiatives to improve their electricity delivery systems. One such initiative of which Agency is aware is a new inspection program. What is Vendor's assessment and recommendations concerning each new initiative at each utility?

- 2.3.2.5.22** Ameren utility emergency plans. An assessment of the emergency plans of each utility as compared to the best electric utility industry emergency preparedness and response planning and practices. Recommendations for improvement.
- 2.3.2.5.23** Weather and load monitoring, alert processes, and pre-event prediction of damage and effects. An assessment of the effectiveness and accuracy of the utilities' weather and load monitoring to allow the utilities to take appropriate pre-event actions such as mobilizing work forces and emergency centers and preparing for load reductions. A review of the utilities' alert processes and methods of use of pre-event damage predictions. A review of the information available to the utilities before the storms and make assessments regarding whether the utilities' predictions were reasonable and pre-event responses were appropriate.
- 2.3.2.5.24** An evaluation of the utilities' mobilization of the emergency response organization, performance of the utilities' emergency response centers, performance of the utilities' field command centers, and the utilities' use of outside resources. An organizational assessment of the utilities' internal structure for managing service interruptions and the adequacy of overall resources available for electric emergency outages. An evaluation of the organizational structure, the reporting relationships, and the roles and responsibilities of organizations and personnel involved in electric emergency outage planning, response, and restoration.
- 2.3.2.5.25** Restoration personnel. What was the number of Ameren employees, contractors, and outside utility personnel working on service restoration during each day and broken down by line personnel, forestry personnel, supervisory personnel, etc.? What was the length of work hours for restoration personnel each day? Did any restoration personnel sustain any serious injuries?
- 2.3.2.5.26** An evaluation of the utilities' outage management systems, restoration status monitoring and reporting, and damage assessment. An assessment of the effectiveness of the systems and procedures the utilities used for determining the extent of damage incurred, number of customer outages and developing service restoration estimates. A verification of the accuracy of the data collection systems used for determining the extent of outages, including the number of customers affected and the development of an accurate estimate of the time for service restoration. A review of the results of all interruption reporting systems and assessment of the data collection process for and accuracy of such systems.
- 2.3.2.5.27** An evaluation of the utilities' event communications and performance of call centers. A determination of how the utilities employed industry "best practices" during and after the storms in their communications practices. Could customers reach the utilities to report outages? Did the utilities provide accurate estimates of restoration times and other information? Did the utilities keep local and State government officials informed? Were updates prompt? Did the utilities appropriately adjust estimated restoration times as their restoration efforts continued?
- 2.3.2.5.28** Public education. Did the utilities take the opportunity after the storms and during and after restoration of service to educate the public, local government officials, and tree owners on the importance of cooperation with utility vegetation management efforts for controlling service interruptions and for preserving public safety?
- 2.3.2.5.29** An evaluation of the performance of the utilities' support organizations such as safety, security, logistics, materials, and transportation.
- 2.3.2.5.30** Shortages. Did a shortage of material, equipment, or personnel affect Ameren's service restoration efforts?
- 2.3.2.5.31** Materials. What was the number of poles, wires, transformers, crossarms, etc. that each utility replaced during its service restoration efforts? What steps did the utilities take to ensure that the materials used for storm restoration were of acceptable quality and that they would provide safe and reliable service?
- 2.3.2.5.32** Delays. Did any factors delay or hasten the utilities' service restoration efforts?
- 2.3.2.5.33** Restoration time. How long did it take the utilities to restore service to customers? What could the utilities have done to shorten their restoration times? What should the utilities do to shorten restoration times after the next storm?
- 2.3.2.5.34** Restoration work quality. What have the utilities done to ensure that the work completed during storm restoration efforts by their personnel and by personnel for contractors and outside utilities is of acceptable quality, meets NESC requirements, and will provide reliable and safe electric service?
- 2.3.2.5.35** An evaluation of the utilities' field restoration. This task shall focus on the actual field restoration activities, such as the following: field restoration organization; reporting structure; coordination

with other emergency response organizations such as the Illinois Emergency Management Agency, Emergency Services and Disaster Agencies, other utilities, police, and fire; use of vegetation management crews; switching, clearance, and tagging processes; work prioritization processes; crew deployment processes; restoration status reporting processes; work centers and staging sites; processes for communicating with restoration crews; meal practices; work hours; and the parking and security for restoration vehicles.

**2.3.2.5.36** An evaluation of the utilities' post-event processes such as ramp-down, clean-up and post-event critiques. An evaluation of the utilities' performance following storm restoration, including the clean-up and removal of safety hazards from the field and the utilities' self-assessment of performances. A determination of whether the utilities' post-event activities have been effective in improving future performance, determining the root causes of any undesired outcomes, and gaining a solid understanding of customer and other stakeholder satisfaction and expectations.

**2.3.2.5.37** Phase 1 quarterly oral reports to the Commissioners. As scheduled by the Agency, Vendor will provide quarterly oral update reports to the Commissioners during open public sessions of the Commission.

**2.3.2.5.38** Phase 1 task completion reports. On dates throughout the course of the Phase 1 investigation and specified in the detailed work plan, Vendor shall submit to Agency written task completion reports. These task completion reports shall serve to verify for the Agency that Vendor is completing satisfactory work on an acceptable schedule. The Phase 1 task completion reports shall be properly referenced back to information sources, grammatically correct, free of all unnecessary electric utility jargon and acronyms, and easy for lay persons to read and understand. Reports shall also include a cross reference that shows the location in the reports where each issue and question included in this contract's paragraphs 2.3.2 through 2.3.2.5.36 area addressed. Vendor's preliminary work plan shall include the dates for task completion reports and identification of the tasks to be covered by each report.

**2.3.2.5.38.1** Provide to Agency draft task completion reports of Vendor's Phase 1 analyses, findings, conclusions and recommendations related to particular tasks identified in the detailed work plan. The draft reports shall be provided in a format approved by Agency Project Manager.

**2.3.2.5.38.2** Provide to Agency a final task completion report within two (2) weeks after Vendor receives Agency's comments on each draft task completion report.

**2.3.2.5.39** Phase 1 final investigation report (a public version – redacted and a confidential version – unredacted). Report shall specifically state the standard against which Vendor measured each utilities' performance for each issue covered in the report; state whether each utility met the standard; explain Vendor's information sources, analyses, and conclusions for each utility; and provide recommendations for improving each utility's performance for each issue as appropriate. The Phase 1 final report shall be properly referenced back to information sources, grammatically correct, free of all unnecessary electric utility jargon and acronyms, and easy for lay persons to read and understand. Reports shall also include a cross reference that shows the location in the reports where each issue and question included in this contract's paragraphs 2.3.2 through 2.3.2.5.36 area addressed.

**2.3.2.5.39.1** Provide to Agency a draft final report of Vendor's Phase 1 analyses, findings, conclusions and recommendations from its investigation within eleven (11) months of the execution date of the contract. The draft report shall be provided in a format approved by Agency Project Manager.

**2.3.2.5.39.2** Provide each Ameren utility a minimum of three (3) business days to perform a factual review of the Vendor's draft Phase 1 investigation report.

**2.3.2.5.39.3** Provide to Agency a Phase 1 final report of Vendor investigative analyses, findings, conclusions and recommendations within ten (10) business days after the day of Agency's comments on Vendor's draft report. The final report shall be provided in two versions – a public version (redacted) and a confidential version (unredacted) - if confidential material is included in the Vendor's report. The final report shall be provided in an electronic format approved by Agency Project Manager and thirty (30) hard copies of the confidential version shall be provided for distribution inside the Agency. The Vendor shall also make an oral presentation regarding its findings and recommendations to the Commissioners in an open public session of the Commission.



**2.3.3** Specifications for verification phase ("Phase 2") – Identification of work steps Vendor is to perform.

- 2.3.3.1** Develop and submit a new Phase 2 work plan to the Agency Project Manager for approval five (5) or more business days before each quarterly on-site visit. Vendor shall revise the work plan and submit to the Agency Project Manager for approval as required by Agency Project Manager. All work plans and revisions thereto must provide for active participation and coordination with the Agency Project Manager and Ameren's Project Manager. All work plans shall include the necessary steps to meet the goals and objectives of the Agency specified in section 2.2 and the Agency Scope defined by sections 2.3.3, 2.4, and 2.5. Vendor shall include in all work plans an estimate of the hours required for each functional area and work step for each Vendor position (e.g. manager, engineer, etc.). The focus of the work plans shall be to function as a project management tool to assure Agency that Vendor has an adequate understanding of the requirements of the contract and can allocate resources reasonably to meet the requirements of the contract as well as provide Staff with appropriate regular performance benchmarks.
- 2.3.3.2** Verify-monitor on a quarterly ("three month") basis the progress that each utility has made in implementing or addressing the Vendor's recommendations from this project's Phase 1 investigation and any initiatives each utility may plan to undertake and that were included in Vendor's Phase 1 final report.
- 2.3.3.3** Coordinate the timing of Vendor's on-site visits with Agency Project Manager and Ameren's Project Manager. Vendor on-site visits shall total no more than twelve (12) weeks per contract year for the duration of the verification-monitoring phase (Phase 2) of the contract, and shall include no less than two (2) weeks per quarterly monitoring visit without prior Agency Project Manager concurrence.
- 2.3.3.4** Phase 2 quarterly reports. Provide Agency with a draft interim report of Vendor's analyses, findings, conclusions and recommendations within two (2) weeks of each of its quarterly on-site visits. The draft quarterly reports shall be provided in a format approved by Agency Project Manager and shall be properly referenced back to information sources, grammatically correct, free of all unnecessary electric utility jargon and acronyms, and easy for lay persons to read and understand.
  - 2.3.3.4.1** Provide each utility a minimum of three (3) business days to perform a factual review of each of the Vendor's draft interim monitoring reports.
  - 2.3.3.4.2** Provide Agency with final interim report of Vendor quarterly verification-monitoring analyses, findings, conclusions and recommendations within one (1) week of Agency's comments on Vendor's draft interim reports.
- 2.3.3.5** Phase 2 final report. The Phase 2 final report shall state whether and on what date each utility completed implementation of each Vendor recommendation and each utility initiative contained in the Phase 1 final report, Vendor's opinion on the quality and suitability of each utility's implementation of each recommendation and initiative, additional recommendations to improve each utility's implementation of each recommendation and initiative, the condition of each utility's electric delivery system at the time of the Phase 2 final report compared to its condition prior to the storms of 2006, and Vendor's opinion of the readiness of each utility to respond to future storms similar to the storms of 2006. The Phase 2 final report shall be properly referenced back to information sources, grammatically correct, free of all unnecessary electric utility jargon and acronyms, and easy for lay persons to read and understand. The Vendor shall also make an oral presentation regarding its findings and recommendations to the Commissioners in an open public session of the Commission.
  - 2.3.3.5.1** Provide Agency with a Phase 2 draft final report detailing the final results of Vendor's 3-year verification and monitoring activities within fifteen (15) business days of the final quarterly field visit.
  - 2.3.3.5.2** Provide each utility a minimum of three (3) business days to perform a factual review of the Vendor draft Phase 2 final verification and monitoring report.
  - 2.3.3.5.3** Provide Agency with a Phase 2 final verification and monitoring report within ten (10) business days of Agency comments on Vendor's draft final report. The Phase 2 final report shall be provided in two versions – a public version (redacted) and a confidential version (unredacted) if Vendor's report includes confidential material. The Phase 2 final report shall be provided in a format approved by Agency Project Manager and thirty (30) hard copies of the confidential version shall be provided for distribution inside the Agency.
  - 2.3.3.5.4** Present the findings and recommendations from Phase 2 verification and monitoring activities in a meeting with Agency (to be coordinated with the Agency Project Manager) as required and scheduled by the Agency.

## 2.4 MILESTONES AND DELIVERABLES

Description of Milestones and Deliverables	Phase 1 Investigation Due Dates	Phase 2 Verification Due Dates
Detailed Work Plan.	Fifteen (15) business days after contract execution.	Five (5) business days before each quarterly on-site visit.
Weekly Telephone and e-Mail Progress Reports.	Once each week in the morning after Phase 1 work begins and continuing until Phase 1 is complete.	Once each week in the morning after each quarterly visit begins and continuing until each quarterly visit ends.
Written Monthly Progress and Contract Administration Reports.	The fifth workday of every month when Phase 1 work begins and continuing until Phase 1 is complete.	The fifth workday of every month when each quarterly visit begins and continuing until each quarterly visit ends.
Phase 1 Draft Task Completion Reports.	As identified in Liberty's detailed work plan.	
Phase 1 Final Task Completion Reports.	Two (2) weeks after Vendor receives Agency's comments on each draft task completion report.	
Phase 1 Draft Final Report.	Eleven (11) months after execution of the contract.	
Phase 1 Final Report.	Twelve (12) months after execution of the contract.	
Phase 2 Draft Interim Reports.		Within two (2) weeks after each quarterly on-site visit ends.
Phase 2 Final Interim Reports.		Within one (1) week of Agency's comments on Vendor's draft interim reports.
Phase 2 Draft Final Report.		Within fifteen (15) business days after the last quarterly on-site visit ends.
Phase 2 Final Report.		Within ten (10) business days after Vendor receives Agency's comments on the draft final report.
Contract Termination.		December 31, 2011, or before.

## 2.5 VENDOR / STAFF SPECIFICATIONS

Qualifications of Vendor and/or Vendor's staff (or others who would perform work under this contract): Vendor must have and demonstrate the education, experience and technical ability necessary to perform this contract. It is anticipated that multiple personnel of varied disciplinary backgrounds and training will be required during this project, including experience and expertise in electric utility management, engineering, and operations. Vendor must show the name and relevant professional biographical data of Vendor's staff who would be assigned to this project. Vendor must include a listing of each individual's areas of expertise and relevance for the requirements of this project as well as their projected effort on this project as a percent of total projected person-hours for this project.

**2.5.1 Education:** It is desirable that Vendor Engagement Director possess a degree in electrical engineering. Additional degrees and/or license certifications would be a plus. All Vendor staff working on this project shall have educational backgrounds appropriate to the areas/issues they will be assigned.

**2.5.2 Experience:** The Vendor Engagement Director shall have a minimum of 10 years relevant electric utility industry experience. Vendor staff shall have a minimum of 5 years relevant electric industry experience, specifically electric utility management, engineering, and operations. Experience in progressive positions of responsibilities working for an electric utility or electrical engineering consultant is preferred.

**2.5.3 Technical/Analytical Ability:** Vendor staff must have the ability to investigate, understand and analyze the information gathered or observed, reach informed conclusions and effectively communicate both verbally and in writing. In addition, Vendor must offer at least one staff member who can and who will edit all written reports required under this contract and ensure that each written report is properly referenced back to information sources, grammatically correct, free of all unnecessary electric utility jargon and acronyms, and easy for lay persons to read and understand.

## **2.6 WHERE SERVICES ARE TO BE PERFORMED**

Unless otherwise specified in this section all services shall be performed in the United States. If the Vendor creates or manufactures the supplies or performs any of the work in another country in violation of the Contract, such action may be deemed a breach of the Contract.

**2.6.1** The Agency anticipates that much of the work under this project will occur in St. Louis, Missouri. However, the Ameren utilities have offices and previous headquarters in Decatur, Peoria, and Springfield, Illinois, and some project work may occur in those offices. In addition, field work under this project could take Vendor staff all over the lower two-thirds of the State of Illinois within the utilities' service areas. Agency public meetings requiring Vendor's presence can occur in both Springfield and Chicago, Illinois Agency offices. Meetings with Agency staff will be held in Springfield, Illinois.

**2.6.2 Work Location Disclosure:** Vendor shall disclose the location where the services required shall be performed. If at multiple locations, the known or anticipated value of the services performed at each location shall be identified. If any work identified for performance in the United States is moved to another country, such action may be deemed a breach of the contract.

## **2.7 SCHEDULE OF WORK**

Any work performed on State premises shall be done during the hours designated by the State and performed in a manner that does not interfere with the State and its personnel.

## **2.8 WARRANTIES FOR SUPPLIES AND SERVICES**

**2.8.1** Vendor warrants that the supplies furnished under this Contract (a) will conform to the State's manufacturing standards, specifications, drawing, samples or descriptions furnished by the State, including but not limited to all specifications attached as exhibits hereto, (b) will be merchantable, of good quality and workmanship, free from defects for a period of twelve months or longer if specified in writing, and fit and sufficient for the intended use (c) will comply with all federal and state laws, regulations and ordinances pertaining to the manufacturing, packing, labeling, sale and delivery of the supplies (d) will be of good title and be free and clear of all liens and encumbrances and (e) will not infringe any patent, copyright or other intellectual property rights of any third party. Vendor agrees to reimburse the State for any losses, costs, damages or expenses, including without limitations, reasonable attorney's fees and expenses, arising from failure of the supplies to meet such warranties. These warranties shall be in addition to all other warranties, express, implied or statutory, and shall survive the State's payment, acceptance, inspection or failure to inspect the supplies.

**2.8.2** Vendor warrants that all services will be performed in a good and professional manner to industry standards by trained and competent personnel. Vendor shall monitor performances of each individual and shall reassign immediately any individual who is not performing to professional standards, who is not efficient or effective in performing the work of the contract, who is disruptive or not respectful of others in the workplace, or who in any way violates the Contract or State policies.

## **2.9 REPORTING, STATUS AND MONITORING SPECIFICATIONS**

**2.9.1** Vendor shall immediately notify the State of any event that may have a material impact on Vendor's ability to perform the Contract.

**2.9.2** Upon request and on forms provided by Agency/Buyer, Vendor shall report the number of qualified veterans and certain ex-offenders hired during Vendor's last completed fiscal year. Vendor may be entitled to employment tax credit for hiring individuals in those groups (PA 94-1067).

**2.9.3** Vendor shall meet with Agency Project Manager (on a day determined by Agency Project Manager) on a weekly basis (in person or by phone and in a written narrative by e-mail, as required by Agency Project Manager) to review current activities and plan future actions. Any discrepancies between actual progress and contract requirements shall be explained.

**2.9.4** Vendor shall submit a monthly written electronic report, by the fifth business day following the month's end, for any month in which work was performed. The report shall consist of a narrative regarding the status of the assignment, with an explanation of any discrepancies between the approved work plan and actual progress and work hours expended. Key preliminary findings and issues will be disclosed in the monthly report. Vendor shall present their findings from their Phase 1 investigation and their Phase 2 monitoring activities in meetings with Agency Staff (to be coordinated with the Agency Project Manager) or before the Commission as required and scheduled by the Commission.

### **2.9.5 Contract Monitoring**

**2.9.5.1** Vendors are responsible for the faithful performance of the contract and shall have internal monitoring procedures and processes to ensure compliance.

**2.9.5.2** The State reserves the right to monitor and track Vendor's performance over the course of the contract including any warranty term. The information gathered may be used in administration of the contract including payment, and may be used when evaluating the Vendor in future procurements.

- 2.9.5.3 In appropriate circumstances, the State and the Vendor will work together to develop a performance scorecard with conditions, milestones, requirements, or timetables that must be met before additional steps may be taken, or payment is due. The scorecard may additionally record matters related to price, service, quality and other factors deemed important.
- 2.9.5.4 The Vendor shall cooperate with the State in this monitoring and tracking activity, which may require that Vendor report progress and problems (with proposed resolutions), provide records of its performance, allow random inspections of its facilities, participate in scheduled meetings and provide management reports as requested by the State.
- 2.9.5.5 The State expects to have quality vendors who are willing to work with us during the term of the contract to provide us with better quality at the same price, or to provide the same quality at a lower price. We may consider, in future procurement evaluations, a vendor that successfully provides better quality or price.

**2.10 BREACH**

Should Vendor breach the Contract and not cure any breach susceptible of being cured within the time specified by the State, the State may cancel the Contract and seek any available legal or equitable remedies, including but not limited to monetary damages and reasonable attorney fees and costs.

**2.11 OTHER SPECIFICATIONS**

- 2.11.1 Vendor shall provide to the Agency/Buyer a written description of its policies and procedures to safeguard confidential information. Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats.
- 2.11.2 Vendor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Vendor in connection with the performance of the Contract.
- 2.11.3 The Vendor is prohibited from soliciting or performing work for AmerenCILCO, AmerenCIPS, and AmerenIP or any of their affiliates or subsidiaries for a period of two years after the termination of the Contract without the written consent of the Commission.

### 3. PRICING

#### 3.1 METHOD AND RATE OF COMPENSATION

Vendor shall be compensated by the following method:

- ☒ hourly As indicated in Bid Pricing Proposal
- ☐ monthly \_\_\_\_\_
- ☐ annually \_\_\_\_\_
- ☐ project \_\_\_\_\_
- ☐ item \_\_\_\_\_

#### 3.2 MAXIMUM COMPENSATION FOR SUPPLIES AND SERVICES

- ☐ Firm Price \_\_\_\_\_
- ☒ Estimated Price \$2,897,880.00

#### 3.3 RENEWAL COMPENSATION

If this contract is renewed, the price shall be the same as for the initial term unless a different compensation or formula for determining the renewal compensation is utilized by the Agency.

#### 3.4 EXPENSES

Unless otherwise agreed upon and stated herein, this Contract does not allow for reimbursement of any expense incurred by Vendor, including but not limited to telephone or other communications device, postage, copying, travel, transportation, lodging, food and per diem. Any approved travel expenses shall be reimbursed in accordance with the Travel Regulation Council and Governor's Travel Board rules.

#### 3.5 DISCOUNT

N/A % discount for payment within N/A days of receipt of invoice

#### 3.6 TAX

Vendor shall not bill for any taxes unless accompanied by proof the State is subject to the tax. The ordering Agency/Buyer's Illinois tax exemption number is E9984-0855-04. Federal tax exemption information is available upon request to the ordering Agency/Buyer.

#### 3.7 INVOICING

An invoice for payment may be submitted at any time following the month's end, for any month in which work was performed. Each invoice shall be of sufficient detail to relate the costs therein to the work performed, by individual, to the approved preliminary or detailed work plans or a specific milestone submitted by Vendor and approved by Staff.

#### 3.8 PAYMENT TERMS AND CONDITIONS

3.8.1 The Ameren Utilities have agreed to pay for Vendor services involved in this Contract. However, in all matters related to this project, the Agency shall be the sole client of Vendor. Vendor shall submit invoices to Agency Project Manager for review and approval. The compensation of professional fees for this project shall be tied to the accomplishment of specific milestones and steps in the current approved project plan as outlined in paragraph 2.4 above. Professional fees are subject to 10% retention as described in paragraph 3.8.2, below. After Agency Project Manager review and approval of Vendor invoice, the Agency Project Manager will invoice the Utilities, and the Utilities will make prompt payment directly to Vendor.

3.8.2 Ten percent (10%) of all Agency approved professional fees will be retained until satisfactory completion of Phase 1 of the project. The 10% retention will be released when all Phase 1 contractual obligations within the control of the Vendor have been fulfilled. For Phase 2 of the contract, ten percent (10%) of all Agency approved professional fees will be retained until satisfactory completion of 12 months, 24 months, and 36 months of quarterly verifications and reports. The 10% retention will be permanently withheld from Vendor if:

3.8.2.1 For reason(s) Staff believes to be within Vendor's control, the reports listed in section 2.9 are not provided to Staff by the dates specified in the work plan or agreed on with Staff, or

3.8.2.2 For reason(s) Staff believes to be within Vendor's control, the duties specified in section 2 are not performed or the milestones provided by the current approved work plan are not met, or

3.8.2.3 For reason(s) specified in section 1.3 and/or section 1.4.

3.8.3 By submitting an invoice, Vendor certifies that the supplies or services provided meet all requirements of the Contract, and the amount billed and expenses incurred are as allowed in the Contract. Invoices for supplies purchased, services

performed and expenses incurred through June 30 of any year must be submitted to the State no later than July 31 of that year; otherwise Vendor may have to seek payment through the Illinois Court of Claims (30 ILCS 105/25).

- 3.8.4 The State shall not be liable to pay for supplies provided or services rendered, including related expenses incurred prior to the execution of this Contract by the Parties and the beginning of the term of this Contract.
- 3.8.5 As a condition of receiving payment Vendor must pay its employees prevailing wages when required by law (e.g., public works, printing, janitorial, window washing, building and grounds services, site technician services, natural resource services, security guard and food services). Vendor is responsible for contacting the Illinois Dept. of Labor (217-782-6206; <http://www.state.il.us/agency/idol/index.htm>) to ensure understanding of prevailing wage requirements (30 ILCS 500/25-60(b)).
- 3.8.6 As a condition of receiving payment Vendor must pay its suppliers and subcontractors according to the terms of their respective contracts. Vendor shall provide lien waivers to the State upon request.

#### **4. STANDARD TERMS AND CONDITIONS**

##### **4.1 AVAILABILITY OF APPROPRIATION (30 ILCS 500/20-60)**

State shall use its best efforts to secure sufficient appropriations to fund this Contract. However, the State's obligations shall cease immediately, without penalty or further payment being required, if the Illinois General Assembly or the federal funding source fails to make an appropriation sufficient to pay such obligation, or if funds needed are insufficient for any reason.

##### **4.2 AUDIT/RETENTION OF RECORDS (30 ILCS 500/20-65)**

Vendor and its subcontractors shall maintain books and records relating to the performance of the Contract or subcontract and necessary to support amounts charged to the State under the Contract or subcontract. Books and records, including information stored in databases or other computer systems, shall be maintained by the Vendor for a period of three years from the later of the date of final payment under the Contract or completion of the Contract, and by the subcontractor for a period of three years from the later of final payment under the term or during the three year period thereafter. Books and records required to be maintained under this section shall be available for review or audit by representatives of the State, the Auditor General, the Executive Inspector General and other governmental entities with monitoring authority, upon reasonable notice and during normal business hours. Vendor and its subcontractors shall cooperate fully with any such audit and with any investigation conducted by any of these entities. Failure to maintain books and records required by this section shall establish a presumption in favor of the State for the recovery of any funds paid by the State under the Contract for which adequate books and records are not available to support the purported disbursement. The Vendor shall not impose a charge for audit or examination of the Vendor's books and records. If federal funds are used to pay contract costs, the Vendor must retain its records for five years. Vendor shall take reasonable steps to insure that any subcontractor is in compliance with the requirements of this section.

##### **4.3 TIME IS OF THE ESSENCE**

Time is of the essence with respect to Vendor's performance of this Contract. Except as specifically waived in writing, failure by either Party to exercise or enforce a right shall not affect any subsequent ability to exercise or enforce a right.

##### **4.4 FORCE MAJEURE**

Failure by either Party to perform its duties and obligations will be excused by unforeseeable circumstances beyond its reasonable control and not due to its negligence including acts of nature, acts of terrorism, riots, labor disputes, fire, flood, explosion, and governmental prohibition. The non-declaring party may cancel the Contract without penalty if performance does not resume within 30 days of the declaration.

##### **4.5 CONFIDENTIAL INFORMATION**

Each Party, including its agents and subcontractors, to this Contract may have or gain access to confidential data or information owned or maintained by the other Party in the course of carrying out its responsibilities under this Contract. The receiving Party shall presume all information received or to which it gains access pursuant to this Contract is confidential unless otherwise designated by the disclosing Party. No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of the disclosing Party, either during the period of the Contract or thereafter. The receiving Party must return any and all data collected, maintained, created or used in the course of the performance of the Contract, in whatever form it is maintained, promptly at the end of the Contract, or earlier at the request of the disclosing Party, or notify the disclosing Party in writing of its destruction. The foregoing obligations shall not apply to confidential data or information lawfully in the receiving Party's possession prior to its acquisition from the disclosing Party; received in good faith from a third-party not subject to any confidentiality obligation to the disclosing Party; now is or later becomes publicly known through no breach of confidentiality obligation by the receiving Party; or is independently developed by the receiving Party without the use or benefit of the disclosing Party's confidential information.

##### **4.6 USE AND OWNERSHIP**

All work performed or supplies created by Vendor under this Contract, whether written documents or data, goods or deliverables of any kind, shall be deemed work-for-hire under copyright law and all intellectual property and other laws, and the State of Illinois is granted sole and exclusive ownership to all such work, unless otherwise agreed to herein. Vendor hereby assigns to the State all right, title, and interest in and to such work including any related intellectual property rights, and/or waives any and all claims that Vendor may have to such work including any so-called "moral rights" in connection with the work. Confidential data or information contained in such work shall be subject to Section 4.5 herein.

##### **4.7 INDEMNIFICATION AND LIABILITY**

The Vendor agrees to indemnify and hold harmless the State of Illinois, its agencies, officers, employees, agents and volunteers from any and all costs, demands, expenses, losses, claims, damages, liabilities, settlements and judgments, including in-house and contracted attorneys' fees and expenses, arising out of (a) any breach or violation by Vendor of any of its representations, warranties, covenants or agreements set forth herein, (b) any actual or alleged death or injury to any person, damage to any property or any other damage or loss by whomsoever suffered, claimed to result in whole or in part from vendor's negligent performance hereunder, (c) any act, activity or omission of Vendor or any of its employees, representatives, subcontractors or agents. Neither party shall be liable for incidental, special, consequential or punitive damages.

**4.8 INSURANCE**

Vendor shall, at all times during the term and any renewals, maintain and provide a Certificate of Insurance naming the State as additional insured for all required bonds and insurance. Certificates may not be modified or canceled until at least 30 days notice has been provided to the State. Vendor shall provide: (a) General Commercial Liability-occurrence form in amount of \$1,000,000 per occurrence (Combined Single Limit Bodily Injury and Property Damage) and \$2,000,000 Annual Aggregate; (b) Auto Liability, including Hired Auto and Non-owned Auto, (Combined Single Limit Bodily Injury and Property Damage) in amount of \$1,000,000 per occurrence; and (c) Worker's Compensation Insurance in amount required by law. Insurance shall not limit Vendor's obligation to indemnify, defend, or settle any claims.

**4.9 INDEPENDENT CONTRACTOR**

Vendor shall, in the performance of this Contract, be an independent contractor and not an agent or employee of, or joint venturer with the State. All payments by the State shall be made on that basis.

**4.10 ASSIGNMENT AND SUBCONTRACTING**

This Contract may not be assigned, transferred or subcontracted in whole or in part by the Vendor without the prior written consent of the State. Vendor shall describe, as a supplemental provision to this Contract, the names and addresses of all authorized subcontractors utilized by Vendor in the performance of this Contract, together with a description of the work to be performed by the subcontractor and the anticipated amount of money that each subcontractor is expected to receive pursuant to this Contract. For purposes of this section, subcontractors are those specifically hired to perform all or part of the work or to provide the supplies covered by the Contract.

**4.11 SOLICITATION AND EMPLOYMENT**

Vendor shall not employ any person employed by the State during the term of this Contract to perform any work under this Contract. Vendor shall give notice immediately to the Agency/Buyer's director if Vendor solicits or intends to solicit State employees to perform any work under this Contract.

**4.12 COMPLIANCE WITH THE LAW**

The Vendor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, orders, federal circulars and all license and permit requirements in the performance of this Contract. Vendor shall be in compliance with applicable tax requirements and shall be current in payment of such taxes.

**4.13 BACKGROUND CHECK**

Whenever the State deems it reasonably necessary for security reasons, the State may conduct, at its expense, criminal and driver history background checks of Vendor's officers, employees or agents. Vendor shall reassign immediately any such individual who does not pass the background checks.

**4.14 APPLICABLE LAW**

This Contract shall be construed in accordance with and is subject to the laws and rules of the State of Illinois. The Department of Human Rights' Equal Opportunity requirements (**44 Ill. Adm. Code 750**) are incorporated by reference. Any claim against the State arising out of this Contract must be filed exclusively with the Illinois Court of Claims (**705 ILCS 505/1**). The State shall not enter into binding arbitration to resolve any Contract dispute. The State of Illinois does not waive sovereign immunity by entering into this Contract. The official text of cited statutes is incorporated by reference (An unofficial version can be viewed at <http://www.ilga.gov/legislation/ilcs/ilcs.asp>. In compliance with the Illinois and federal Constitutions, the Illinois Human Rights Act, the U. S. Civil Rights Act, and Section 504 of the federal Rehabilitation Act and other applicable laws and rules the State does not unlawfully discriminate in employment, contracts, or any other activity.

**4.15 ANTI-TRUST ASSIGNMENT**

If Vendor does not pursue any claim and cause of action it has arising under federal or state antitrust laws relating to the subject matter of the Contract, then upon request Vendor shall assign to the State all right, title and interest in and to the claim or cause of action.

**4.16 AUTHORIZATION**

Each Party to this Contract represents and warrants to the other that: (a) it has the right, power and authority to enter into and perform its obligations under this Contract and (b) it has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of this Contract, and (c) this Contract constitutes a legal, valid and binding obligation upon itself in accordance with its terms.

**4.17 CONTRACTUAL AUTHORITY**

The Agency/Buyer that signs for the State of Illinois shall be the only State entity responsible for performance and payment under the Contract. When the Department of Central Management Services (CMS) signs in addition to an Agency/Buyer, CMS does so as approving officer and shall have no liability to Vendor. When CMS signs a Master Contract on behalf of State agencies, only the Agency/Buyer that places an order with the Vendor shall have any liability to Vendor.



**4.18****NOTICES**

Notices and other communications provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by courier (UPS, Federal Express or other similar and reliable carrier), by e-mail, or by fax showing the date and time of successful receipt. Notices shall be sent to the individuals who signed the Contract using the contact information following the signatures. Each such notice shall be deemed to have been provided at the time it is actually received. By giving notice, either Party may change the contact information.

5. **CERTIFICATIONS AND CONFLICTS**

Vendor certifies it is under no legal prohibition on contracting with the State of Illinois, has no known conflicts of interest and further specifically certifies that:

- 5.1 Vendor, its employees and subcontractors will comply with applicable provisions of the U.S. Civil Rights Act, Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act (**42 U.S.C. § 12101 et seq.**) and applicable rules in performance under this Contract.
- 5.2 Vendor is not in default on an educational loan (**5 ILCS 385/3**).
- 5.3 Vendor has informed the director of the Agency/Buyer in writing if he/she was formerly employed by that agency and has received an early retirement incentive prior to 1993 under Section 14-108.3 or 16-133.3 of the Illinois Pension Code, **40 ILCS 5/14-108.3** and **40 ILCS 5/16-133.3**, and acknowledges that contracts made without the appropriate filing with the Auditor General are not payable from the "contractual services" or other appropriation line items. Vendor has not received an early retirement incentive on or after 2002 under Section 14-108.3 or 16-133.3 of the Illinois Pension Code, **40 ILCS 5/14-108.3** and **40 ILCS 5/16-133.3**, and acknowledges that contracts in violation of Section 15a of the State Finance Act are not payable from the "contractual services" or other appropriation line items (**30 ILCS 105/15a**).
- 5.4 Vendor has not been convicted of bribing or attempting to bribe an officer or employee of the State of Illinois or any other State, nor has Vendor made an admission of guilt of such conduct that is a matter of record (**30 ILCS 500/50-5**).
- 5.5 If Vendor has been convicted of a felony, at least five years have passed after the date of completion of the sentence for such felony, unless no person held responsible by a prosecutor's office for the facts upon which the conviction was based continues to have any involvement with the business (**30 ILCS 500/50-10**).
- 5.6 If Vendor, or any officer, director, partner, or other managerial agent of Vendor, has been convicted of a felony under the Sarbanes-Oxley Act of 2002, or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953, at least five years have passed since the date of the conviction. Vendor further certifies that it is not barred from being awarded a contract and acknowledges that the State shall declare the Contract void if this certification is false (**30 ILCS 500/50-10.5**).
- 5.7 Vendor and its affiliates are not delinquent in the payment of any debt to the State (or if delinquent has entered into a deferred payment plan to pay the debt), and Vendor and its affiliates acknowledge the State may declare the Contract void if this certification is false (**30 ILCS 500/50-11**) or if Vendor or an affiliate later becomes delinquent and has not entered into a deferred payment plan to pay off the debt (**30 ILCS 500/50-60**).
- 5.8 Vendor and all affiliates shall collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with provisions of the Illinois Use Tax Act (**30 ILCS 500/50-12**) and acknowledges that failure to comply can result in the Contract being declared void.
- 5.9 Vendor certifies that it has not committed a willful or knowing violation of the Environmental Protection Act (relating to Civil Penalties under the Environmental Protection Act) within the last five years, and is therefore not barred from being awarded a contract. If the State later determines that this certification was falsely made by the Vendor, the Vendor acknowledges that the State may declare the Contract void (**30 ILCS 500/50-14**).
- 5.10 Vendor has not paid any money or valuable thing to induce any person to refrain from bidding on a State contract, nor has Vendor accepted any money or other valuable thing, or acted upon the promise of same, for not bidding on a State contract (**30 ILCS 500/50-25**).
- 5.11 Vendor is not in violation of the "Revolving Door" section of the Illinois Procurement Code (**30 ILCS 500/50-30**).
- 5.12 Vendor will report to the Illinois Attorney General and the Chief Procurement Officer any suspected collusion or other anti-competitive practice among any bidders, offerors, contractors, proposers or employees of the State (**30 ILCS 500/50-40, 50-45, 50-50**).
- 5.13 In accordance with the Steel Products Procurement Act, steel products used or supplied in the performance of a contract for public works shall be manufactured or produced in the United States, unless the executive head of the procuring agency grants an exception (**30 ILCS 565**).
- 5.14 Vendor will, pursuant to the Drug Free Workplace Act, provide a drug free workplace and Vendor and its employees shall not engage in the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance during the performance of the Contract. This certification applies to contracts of \$5000 or more with individuals; and to entities with 25 or more employees (**30 ILCS 580**).

- 5.15 Neither Vendor nor any substantially owned affiliate is participating or shall participate in an international boycott in violation of the U.S. Export Administration Act of 1979 or the applicable regulations of the U.S. Department of Commerce. This certification applies to contracts that exceed \$10,000 (30 ILCS 582).
- 5.16 Vendor has not been convicted of the offense of bid rigging or bid rotating or any similar offense of any state or of the United States (720 ILCS 5/33 E-3, E-4).
- 5.17 Vendor complies with the Illinois Department of Human Rights Act and rules applicable to public contracts, including equal employment opportunity, refraining from unlawful discrimination, and having written sexual harassment policies (775 ILCS 5/2-105).
- 5.18 Vendor does not pay dues to, or reimburse or subsidize payments by its employees for any dues or fees to any "discriminatory club" (775 ILCS 25/2).
- 5.19 Vendor complies with the State Prohibition of Goods from Forced Labor Act, and certifies that no foreign-made equipment, materials, or supplies furnished to the State under the Contract have been or will be produced in whole or in part by forced labor, or indentured labor under penal sanction (30 ILCS 583).
- 5.20 Vendor certifies that no foreign-made equipment, materials, or supplies furnished to the State under the Contract have been produced in whole or in part by the labor or any child under the age of 12 (30 ILCS 584).
- 5.21 Vendor certifies that it is not in violation of Section 50-14.5 of the Illinois Procurement Code (30 ILCS 500/50-14.5) that states: "Owners of residential buildings who have committed a willful or knowing violation of the Lead Poisoning Prevention Act (410 ILCS 45) are prohibited from doing business with the State until the violation is mitigated".
- 5.22 Vendor warrants and certifies that it and, to the best of its knowledge, its subcontractors have and will comply with **Executive Order No. 1 (2007)**. The Order generally prohibits Vendors and subcontractors from hiring the then-serving Governor's family members to lobby procurement activities of the State, or any other unit of government in Illinois including local governments if that procurement may result in a contract valued at over \$25,000. This prohibition also applies to hiring for that same purpose any former State employee who had procurement authority at any time during the one-year period preceding the procurement lobbying activity.
- 5.23 Vendor has disclosed if required, on forms provided by the State, and agrees it is under a continuing obligation to disclose to the State, financial or other interests (public or private, direct or indirect) that may be a potential conflict of interest or which would prohibit Vendor from having or continuing the Contract. This includes, but is not limited to conflicts under the "Infrastructure Task Force Fee Prohibition" section of the State Finance Act (30 ILCS 105/8.40), Article 50 of the Illinois Procurement Code (30 ILCS 500/50), or those which may conflict in any manner with the Vendor's obligation under this Contract. Vendor shall not employ any person with a conflict to perform under this Contract. If any elected or appointed State officer or employee, or the spouse or minor child of same has any ownership or financial interest in the Vendor or the Contract, Vendor certifies it has disclosed that information to the State if required, on forms provided by the State, and any waiver of the conflict has been issued in accordance with applicable law and rule. A waiver is required if:
- 5.23.1 the person intending to contract with the State, their spouse or child: (i) holds an elective office in Illinois; (ii) holds a seat in the Illinois General Assembly; (iii) is an officer or employee of the Capital Development Board or the Illinois Toll Highway Authority; or holds an appointed position or is employed in any of the offices or agencies of the State government and who receives compensation for such employment in excess of 60% of the salary of the Governor (**currently \$90,414.60**). (The conflict of interest threshold of 60% of the Governor's salary set forth in Section 50-13 does not apply to elective office holders, legislators, and officers or employees of the Capital Development Board or the Illinois Toll Highway Authority.);
- 5.23.2 the contract is with a firm, partnership, association or corporation in which a person referenced in 4.7.3.1 above receives more than 7.5% of the total distributable income or an amount in excess of the salary of the Governor (**currently \$150,691.00**).
- 5.23.3 the contract is with a firm, partnership, association or corporation in which a person referenced in 4.7.3.1 above, together with their spouse or minor child, receives more than 15% in the aggregate of the total distributable income or an amount in excess of 2 times the salary of the Governor (**currently \$301,382.00**) from the firm, partnership, association or corporation.

6. SUPPLEMENTAL PROVISIONS

6.1 **ENTIRE CONTRACT**

This Contract, consisting of the signature page, sections one through six, and any attachments marked (X) below, constitutes the entire Contract between the Parties concerning the subject matter of the Contract, and supersedes all prior proposals, contracts and understandings between the Parties concerning the subject matter of the Contract. Amendments, modifications and waivers must be in writing and signed by authorized representatives of the Parties. Any provision of this Contract officially declared void, unenforceable, or against public policy, shall be ignored and the remaining provisions shall be interpreted, as far as possible, to give effect to the Parties' intent. All provisions that by their nature would be expected to survive, shall survive termination. In the event of a conflict between the State's and the Vendor's terms, conditions and attachments, the State's terms, conditions and attachments shall prevail.

\_\_\_\_\_ Definitions

\_\_\_\_\_ Public Works Requirements (820 ILCS 130/4)

\_\_\_\_\_ Prevailing Wage (janitorial cleaning, window cleaning, building and grounds, site technician, natural resources, food services, and security services, if valued at more than \$200 per month or \$2000 per year (30 ILCS 500/25-60)

\_\_\_\_\_ Prevailing Wage (all printing contracts) (30 ILCS 500/25-60)

\_\_\_\_\_ Prohibition on Contingent Fees (certain federally funded contracts)

  X   BEP Subcontracting Requirements (See Attachment A)

\_\_\_\_\_ State Supplemental Terms and Conditions

\_\_\_\_\_ Vendor Supplemental Terms and Conditions

\_\_\_\_\_ Other (describe)

## **Attachment A**

**See the following 3 pages for the BEP Subcontracting Utilization Plan.**

**Utilization Plan**  
**Response to Attachment E**

The following Utilization Plan is The Liberty Consulting Group's (the Vendor) response to Attachment E – Minority, Female, Persons with Disability Status and Subcontracting and is submitted as part of our proposal.

Liberty Consulting Group (the Vendor) makes the following assurance and agrees to include the assurance in each subcontract with a subcontractor or supplier utilized on this contract: We shall not discriminate on the basis of race, color, national origin, sexual orientation or sex in the performance of this contract. Failure to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the Agency deems appropriate.

We acknowledge the requirements of Attachment E, Minority, Female, Persons with Disability Status and Subcontracting, and are submitting this Utilization Plan with the proposal.

We understand that compliance with Attachment E is an essential part of this contract and that the Utilization Plan will become a part of the contract, if awarded.

Vendor's person responsible for compliance with Attachment E:

Name: Robert L. Stright

Title: Executive Vice President

Telephone: (717)270-4500 extension

Email: Stright@LibertyConsultingGroup.com

We submit one (1) of the following statements:

- ☐ We are certified (or are eligible and have applied to be certified) with BEP and plan to fully meet the BEP utilization goal through self-performance.
- ☒ We attach Section I, to demonstrate our Plan fully meets the BEP utilization goal of 10% through subcontracting.
- ☐ We attach Section I, to detail that we do not fully meet the BEP utilization goal of 10%. We also attach Section II, Demonstration of Good Faith Efforts.

**Section I**  
**Utilization of Certified Vendors**

(Please submit a separate Section I for each proposed certified vendor.)

To achieve the BEP utilization goal through subcontracting, the following is proposed:

- (1) The proposed certified vendor's company name and address:

The Ascent Group, Inc.  
120 River Oak Way  
Athens, GA 30605

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At the time of submission, the above certified vendor is:

- ☒ Certified with the CMS Business Enterprise Program (BEP)
- ☐ Meets the criteria and has submitted an application for certification with BEP (BEP certification must be completed before contract award)
- ☐ Certified as a disadvantaged, minority, or woman business enterprise with the following governmental agency or private organization:  
(BEP certification must be completed before contract award)
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

- (2) A detailed description of the commercially useful work to be done by this certified vendor is as follows:

Consulting services related to emergency preparedness, customer service, and storm restoration.

- (3) The total estimated cost to the state for this contract is \$2,897,880. The portion of the contract which will be subcontracted to this certified vendor is \$293,760, or 10.14% of the total cost of the contract.
- (4) A notarized signed letter of intent between Liberty and Ascent detailing the work to be performed by the certified vendor and the agreed upon rates or prices, conforming to the Utilization Plan is included as Attachment M.
- (5) A joint venture agreement is not required, as the arrangement between Liberty and Ascent is that of contractor/sub-contractor and not a joint venture.
- (6) The Vendor has not prohibited or otherwise limited The Ascent Group from providing subcontractor quotes to other potential bidders/vendors.

We understand that the Agency may require additional information to verify our compliance and we agree to cooperate immediately in submitting to interviews, allowing entry to any of our office locations, providing further documentation, or soliciting the cooperation of our proposed certified vendor. We will maintain appropriate records relating to our utilization of the certified vendor including: invoices, cancelled checks, books of account, and time records.

